

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAJAD SHAKOOR,

Petitioner,

No. CIV S-01-1551 LKK JFM P

vs.

GAIL LEWIS, et al.,

Respondents.

ORDER

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's September 13, 2005, denial of his application for a writ of habeas corpus. Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The certificate of appealability must “indicate which specific issue or issues satisfy” the requirement. 28 U.S.C. § 2253(c)(3).

A certificate of appealability should be granted for any issue that petitioner can demonstrate is “‘debatable among jurists of reason,’” could be resolved differently by a different court, or is “‘adequate to deserve encouragement to proceed further.’” Jennings v. Woodford,

290 F.3d 1006, 1010 (9th Cir. 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).¹

Petitioner has made a substantial showing of the denial of a constitutional right in the following issues presented in the instant petition: (1) whether there was insufficient evidence to support his conviction; (2) whether jury instruction error violated his due process rights; (3) whether his sentence constitutes cruel and unusual punishment; and (4) whether he received ineffective assistance of counsel.

Accordingly, IT IS HEREBY ORDERED that a certificate of appealability is issued in the present action.

DATED: January 12, 2006.

/s/Lawrence K. Karlton
UNITED STATES DISTRICT JUDGE

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¹ Except for the requirement that appealable issues be specifically identified, the standard for issuance of a certificate of appealability is the same as the standard that applied to issuance of a certificate of probable cause. *Jennings*, at 1010.